

RERA and Consumer Protection Act: The Choice is of the Buyer

Sauhard Sharma,

Research Scholar, Manipal University Jaipur

Dr. Sonu Agarwal,

Associate Professor, Manipal University Jaipur

ABSTRACT

In trade, the real estate sale becomes an important business worldwide. Several companies have the real estate businesses. Some dishonest companies might lure the Buyers. The legal control is very important. Here, the authors discuss on the Real Estate (Regulation and Development) Act (RERA) and Consumer Protection Act(CPA): The Choice is of the Buyer.legal regulations for real estates in India.

KEYWORDS: Real Estate (Regulation and Development) ACT (RERA),Consumer Protection Act(CPA), Buyer,NCDC (National Consumer Dispute Redressal Commission)

Article Received: 10 August 2020, Revised: 25 October 2020, Accepted: 18 November 2020

1.INTRODUCTION

Demand for space in India is booming. For the allied real estate industries, the future indeed seems bright. Rapid growth, when uncontrolled, is dangerous and may bring tragedy. In long run, vigorous and sustained real estate markets require strong regulation (Majumdar, 2016)¹. Although poorly regulated, real estate remains as one of the fastest growing sectors in India. It is important to look into the history of the Real Estate (Regulation and Development) Act, 2016. The Act was passed eight long years after the conception of the initial idea to have a regulator for the real estate sector, a field characterized as being synonymous with black money, mafia, fraud, etc., though some States such as Maharashtra and Haryana had either passed legislations or drafted bills governing this sector, yet it remained largely unregulated. In this context, the then Hon'ble

Minister of Urban Development and presently Vice-President of India explained the need of for the Act before the Rajya Sabha. He mentioned that the real estate sector is primarily driven by buyers/consumers who invest their hard-earned money; so, the Act will really help sincere people in this sector, both buyers and promoters and further he cited the telecom industry as an example and said that even though there are only a few telecom operators, there is a regulator for that Industry. Thus, the thousands of players in the real estate sector need to have regulatory mechanism.

Impact of RERA and Consumer Protection Act on Buyer

The real estate sector is one of the most universally prominent segments. After agriculture the emergence of real estate is one of the second highest extensive sector followed in India. Further, this basically centers around the positive and negative effects of

¹Arjya B. Majumdar, 'Developments In The Apartment And Urban Real Estate Laws In India' [2016] SSRN Electronic Journal.

latest real estate on economy (Patil & Waghmare, 2018)².

Real Estate is one of the most important and crucial sectors in any economy across the world not only India. In India, there was no proper regulatory body to maintain proper code of conduct, which was essential, and due to this, there were many real estate scams in India, and it created chaos in this sector. The most recent scam done is the famous Amrapali case, which shook the whole nation. Real estate fraud is not a new concept, it started way back in 90s, as there was no proper regulatory authority to provide proper punishment to the real estate developers who were involved in these scams. Due to limited legislation in this sector, the buyers had no option but to approach the NCDRC (National Consumer Dispute Redressal Commission). Due to limited powers, they were unable to provide necessary relief relating to Real Estate frauds. The legislative intent of Consumer Protection Act, 1986 aimed at protecting the interest of consumer (overall protection) and it was not enacted to deal with real estate frauds whereas RERA is specially made to deal with real estate disputes, frauds etc. The legislative intent behind RERA is only to protect the homebuyers from the malice intent of promoter, builder, real estate agent, etc. This research topic is a comparative study between Consumer Protection Act, 1986 and (Joshi & Joshi & Singh, 2018)³. RERA (Real Estate Regulation Act, 2016) with regard to allotment of flats and other

commercial places. This research describes the benefits of RERA over Consumer Protection Act if a buyer confronted or is confronting a problem with the property developer. Both the regulatory authorities under this act have been described in detail along with the power and functions for the same and also the jurisdiction is discussed in brief. RERA is far better than Consumer Protection Act, 1986 in many ways and it has been discussed in detail.

RERA and Consumer Protection Acts

This paper aims to emphasize on how these RERA and Consumer Protection Acts have aided in curbing the menace and ensured the birth of transparency and accountability in this sector. Due to the absence of proper and subject-specific authority, the sector has been lacking the element of fidelity, however, now the sector has its own subject-specific law along with a proper regulating body, which is seen as a relief for the buyers from the malpractices of the promoters and the developers. Nevertheless, this Act is not devoid of shortcomings. Moreover, the Act under its scope does not only cover the promoter/developer of real estate projects but also private equity investors. In spite of it being a benefaction for the real estate sector, there have been several issues that have been raised recently relating to the jurisdiction and scope of the Act in dealing with lease agreements and authors have projected two different views for the same. Therefore, the authors strongly assert the fact that lack of precision in the Act can be effectively rectified by certain amendments by the legislature.

Consumer Protection Acts in India

²Somdutta P. Patil and Ashish P. Waghmare, 'Influence Of Rera On Real Estate Sector' [2018] Journal of Advances and Scholarly Researches in Allied Education.

³Ashish B. Joshi and Nisha Singh, 'Real Estate Regulation Act (RERA), 2016: Implementation And Issues' (2018) V International Journal of Management Studies.

(Nabi & Nabi, 2020)⁴Consumerism is a fillip to consumption –interminable desire to consume varietal quality and quantity of goods and services. Consumerism thus introduces qualitative changes in social and economic order which essentially promotes the trading of goods and services in ever-increasing magnitude. On the one hand market become vibrant and the changes are accompanied by both negative and positive externalities. Consumers are forced to be alert.

With the advent of globalization, Consumer Rights has assumed more significance when traders of different products and services are on the contest influencing the vulnerable consumers, even without caring laws shielding consumer rights. The traders exploit the consumers at large, the people of the low income level in particular.

Even the disputes in the Consumer Forums in fairly large number of cases are not resolved rapidly as per consumer protection act due to lacuna in the system. The legal or regulatory system is not adequately structured to dispense justice to the afflicted consumers; absence of adequate understanding and expertise in consumer regulations seems to be major reason thereby defeating the purpose of the Consumer Protection Act.

The Consumer Protection Regulations 2005 The NCDRC in exercise of the powers conferred by section 30A of the CPA, 1986 and with previous approval of the central government made the Consumer Protection Regulations 2005 for the

purpose of the functioning and other procedural aspects of the consumer forums.

The Consumer Protection (Amendment) Bill, 2011 As already discussed, the Consumer Protection Act, 1986 has already been amended thrice. The last amendment took place in 2002. On account of the fact that with the passage of time and with gradual development and changes in the consumer scenario in our country it was felt that the Act must be made more effective and purposeful, hence, the Consumer Protection (Amendment) Bill, 2011 was introduced in the Lok Sabha. The Consumer Protection (Amendment) Bill, 2011 was introduced in the parliament in order to introduce amendments in Section 2, Section 9, Section 10, Section 11, Section 15, Section 16, Section 20, Section 27, Section 30 of the Consumer Protection Act, 1986.

Consumer Protection Act, 1986

Main Elements/Features Of Consumer Protection Act

Public Interest Litigation: Under this Act group of consumers having common interest can submit public interest litigation, i.e. complaint can be submitted by group of consumers also so as to protect public interest. Here the complaint can be filed even by person who are not affected by the unfair trade practice.

Comprehensive: Under this Act the consumer can submit complaint regarding excessive price, unsatisfactory services, deceptive advertising, failure in executing guarantee, failure in providing assured after-sale-services, unsafe products, expired products, etc. So it covers almost all types of possible grievances of consumers. So this Act is very comprehensive.

⁴Mohammed Irshadun Nabi and Mohammed Kamalun Nabi, 'Consumer Protection: Policy And Law In India' (2020) 1 Studies in Social Science Research.

Amendments In Consumer Protection Act

The act has been amended thrice in 1991, 1993 and 2002 and the fourth amendment is coming very soon. While the first two amendments were made to make the Act more effective and purposeful, the third amendment which intended to further strengthen it, was mainly concerned over the delay in disposal of consumer complaints and several bottlenecks and shortcoming which came to light in the implementation of various provisions of the Act. Besides this we also have consumer protection Regulations, 2005 which came into force w.e.f. 31st May 2005 which is considered to be ancillary or supportive to the existing provisions of the Act (Kumar & Sharma, 2019)⁵.

- i. Time- limit in respect of filling of the complaint, issuing of notice to the opposite party and giving of order on complaint has been prescribed.
- ii. Opposite party is debarred from engaging any lawyer.
- iii. Substitution of legal heir or representative as a party to the complaint in case of death of the complainant.
- iv. Commercial and co-operative organizations have also been entitled to play a material role.
- v. Substitution of "Let the Seller be Aware" for "Buyer Beware".

⁵ Vipin Kumar and Adya Sharma, 'Strengthening Consumer Rights: The Advent Of Consumer Protection Act, 2019' [2019] SSRN Electronic Journal.

The Consumer Protection Act is a beneficial statute and particularly oriented against any hyper technicalities. The definition of a consumer and a service are wide-ranged drafted to grand relief to the larger class of buyers/consumers created thereby. Equitable considerations in its application are the more significantly relevant ones as against the legalistic hair-splitting with regard to its applicability. It is well settled that the equity court will always pierce the veil of the form in order to arrive at the real nature and substance of the transaction. Like the cases of non-delivery of possession, the delay in delivery of possession over the allotted plot/house/flat also amount to deficiency in service. Usually the builders fix a date by which the delivery of the possession over the plot/house/flat has to be delivered but there are innumerable instances where this promise/agreement is not honoured and the possession of the house/plot/flat is delayed for the years together – sometimes upto 20 years – on one ground or the other. During all this delayed period the allottee is deprived of the use of his hard-earned money which he had paid to the builder and, on the other hand, the builder was using this money for all these periods. In such circumstances, the court have taken equitable view and compensated the allottees by awarding interest on the deposited amounts. In *HUDAv. Rajnish Chander Sharda*, the possession of the house was not delivered to the complainant/allottee over 12 years and he lived in rented house for those periods ("*Haryana Urban Development ... vs Rajnish Chander Sharda* on 12 January, 2000", 2021)⁶. The National Commission

⁶ *Haryana Urban Development ... Vs Rajnish Chander Sharda* On 12 January, 2000' (*Indiankanoon.org*, 2021) <<https://indiankanoon.org/doc/1712383/>> accessed 2 February 2021.

awarded interest on the deposited amount at the rate of 18% per annum and it was justified by the Supreme Court also. Based on the above discussion, it can be said that real estate promoter has more responsibilities to hand over the plot/flat or apartment on time to the buyer.

RERA Act

The section 9 deals with the registration of Real Estate Agents under this Act. The Real Estate Agent is the match maker between the promoter/seller and the purchaser. The Real Estate Agent is a masterpiece worker, best coordinator of the north and south i.e., seller and buyer to make best and successful deal in the real estate sector. The Real estate agent is having multidimensional character like marketing manager, salesman, a buyer's believer, a real analyst of the situation, a counsellor, a mediator and business developer (Joshi & Singh, 2018)⁷. The real estate agent must have absolute knowledge about the local market where he is doing business. He can give the best solutions to the outside buyers to purchase a property and give assurance and confidence to the seller regarding the sale of property to the perfect buyer. The agent is having wide coverage of network connections in the market to satisfy the needs of the buyer and to placate urgency of the Seller. The Real Estate Agent is a person who identifies the best property to the promoter for development of the real estate project.

The Delhi High Court has held in a group of petitions moved by a few real estate companies (applicants) against a request passed by the NCDRC National

Consumer Disputes Redressal Commission that cures accessible to homebuyers under the CPA and the RERA, 2016 are simultaneous.

This decision follows the Supreme Court's judgment on account of Pioneer Urban Land and Infrastructure Ltd. and Anr. v. Union of India & Ors; 2019 SCC Online SC 1005, where the Supreme Court had held that remedies given to allottees of plots/lofts are simultaneous and such allottees are in a situation to profit cures under the CPA and the RERA, notwithstanding setting off the arrangements of the Insolvency and Bankruptcy Code, 2016 aggrieved persons can record complaints under Section 31 (1) of RERA Act.

Segment 31. (1) - "Any aggrieved individual may file a complaint with the Authority or the settling official, all things considered, for any infringement or repudiation of the arrangements of this Act or the guidelines and guidelines made thereunder against any promoter allottee or realtor, by and large."

With the end goal of this sub-section "individual" will incorporate the relationship of allottees or any intentional shopper affiliation enlisted under any law for the time being in power. "Person" is characterized under section 2.

This implies that the finality of orders is faster under Consumer court Under Section 43(5) of the RERA Act, 2016 any person aggrieved by an order passed by the Real Estate Regulatory Authority (RERA) can file an appeal. Such an appeal must state the grounds of fact and law on the basis of which the RERA order is challenged (Joshi & Singh, 2018).

As stated in Section 44(2) of the Act, the Appeal must be heard and disposed off within sixty days of filing. If this time limit is exceeded, the Real Estate

⁷Ashish B. Joshi and Nisha Singh, 'Real Estate Regulation Act (RERA), 2016: Implementation And Issues' (2018) V International Journal of Management Studies.

Appellate Tribunal (REAT) will have to give reasons to justify the delay. Thus, the Real Estate Appellate Tribunal is under a statutory duty to dispose off cases in a time-bound manner and not keep them pending.

Rights of Homeowners

Homeowners Associations are private governments that are mushrooming in the housing development markets. Despite 80 to 90% of new homes are built under the housing societies ruled by Homeowners Associations, the field of public law has not caught up this reality and hence paid only scant attention, if any, to protect the property and liberty rights of the owners and tenants of these developments in the large and smaller cities, major and even minor towns spread all across the country. This paper traces the effect on Protection of Property & Liberty Rights of Homeowners, the rights of the owners and potential effects on urban services and hence rights to honourable civic life. A failure to address this will leave a substantial population living under Residential Private Governments as second-class citizens.

Right to Information About the Property, Standardized Carpet Area, Builders Will Be Held Responsible for Any Defect/Fault in The Construction, Builders Won't Be Able to Delay the Projects, Grievances Will Be Addressed and Solved Quickly.

2. Review of Literature

In this article, the authors aim to delve into the regulations, rules and applicable laws dealing with real estate and property ownership in countries such as India, United Kingdom ("UK"), United States ("US"), and United Arab Emirates ("UAE"), Korea, Dubai and Singapore. Furthermore, while

establishing certain laws the article also will provide a comparative analysis of the Real Estate Laws and Regulations in the following countries.

UK

(Yousef, 2019)⁸In the UK, the Law of Property Act, 1925 ("LA") and the Land registration Act, 2005 governs primarily with the real estate regulations.

USA

(Choi, 2019)⁹ In the US, there are three types of laws which are federal, state and local regulations and in this paper, we'll be analyzing the Real Estate Settlement Procedures Act, 1974 ("RESPA") for the purposes of the paper.

It is to be noted here that Real estate and land are heavily litigated because of fraudulent Real Estate Agents. In USA Real Estate agent need to pass an exam with 60% to 75 % and in other countries more or less the percentages of passing the real estate agent is above 60%, but in India, there is no exam for the Real Estate Agent to get license, perhaps only they have to get registered under section 9 of the Real Estate (Regulation & Development) Act, 2016 with prescribed fees. The Authority has to take step to promote the registration level of Agents and to fix certain education level and exams to get Registration number.

UAE

⁸Ibrahim Yousef, 'The Determinants Of Capital Structure: Evidence From GCC And UK Real Estate Sectors' (2019) 27 Real Estate Management and Valuation.

⁹Chasoon Choi, 'An Analysis On Asymmetric Volatility Of Reits Type Stock Indices In USA' (2019) 79 Korea Real Estate Academy.

(Ibrahim, 2018)¹⁰In UAE, for the purposes of this paper and limitations, we will analyze the Dubai Real Estate Regulatory Authority ("DRERA"), 2007, which also solidified the legislation and jurisprudence of real estate issues. This article will attempt to put a clear picture on the laws stated above and a contrast among them with different sections and jurisprudence.

Dubai

(Huston & Han, 2018)¹¹In Dubai, can acquire through sponsorship by employer or spouse. After that RE Agent has to attend the 2 days class called as Certified Training for Real Estate Brokers conducted by the Land Department of Dubai with prescribed fees. After that the Agent needs to pass the exam conducted by Dubai Land Department to get Dubai Real Estate License to do Real Estate business in UAE. In adding, the Agent as to pass the exam with 85% to renew the license every year with renewal fees.

Korea

(Lee, 2019)¹²A Real Estate Investment Trust or a REIT is an alternative investment which exists in form of a trust, a company or other associations of persons possessing a legal character. REITs own assets such as office buildings, shopping malls, warehouses, hotels, resorts, etc. and these assets

generate operating incomes for the REIT in form of rents or interest on loans. The REITs can be listed on the Stock Exchanges, be publicly traded and the investors earn return on investments in form of dividends and market price growth. This paper seeks to explore the categories of REITs, the merits and risks associated with REITs, a jurisdictional analysis wherein the REIT regimes in 8 different countries have been compared, the regulatory framework of REITs in India, analysis of India's first RIET i.e. Embassy Office Parks REIT and the prospects of REIT market in India in the COVID-19 era.

(Kim, 2019) Observe that the Korean REITs emerged and developed rapidly, after the IMF crisis, as vehicles to liquidize corporate real estate assets. Now as corporate reconstructing assets have almost been exhausted within the market, Korean REITs encounter a new phase to broaden their business to the general real estate market.

Singapore

(Ooi & Dung, 2019)In Singapore, if anyone wants to became agent, they have to pass the Real Estate Salesperson Examination with 60% pass mark which is conducted by Council for Estate Agencies, of Singapore Government. If anyone do business in real estate without any proper license mentioned in Section 28(1), he should be punished with fine not exceeding 75000 Singapore dollar or 3 years imprisonment or both. Vanessa Thein Cai Yan was sentenced to 15000 Singapore Dollar for violation of Section 28(1) (c) & 28(1) (b) under Estate Agent Act, for doing Real Estate Business without registering in CEA.

3. Analysis

¹⁰Walaa-Eldeen Ibrahim, 'Foreigners' Real Estate Property In United Arab Emirates : Comparative Study' [2018]

¹¹Simon Huston and Hoon Han, 'Designing Transparent Real Estate Open Data Systems: Sydney, Dubai And London' [2018] SSRN Electronic Journal.

¹²Sungbok Lee, 'On Deregulating The Real Estate Brokerage Fee Of Korea' (2019) 5 Journal of Real Estate Analysis.

RERA and Consumer Protection Act from Indian Buyer context

India

In India, Control of real estate sale by legal regulations, the laws that deal with ownership and trade of lands in particular are the Contracts Act, Transfer of Property Act and Real Estate Regulation Act, 2016.

Criticism of Consumer Protection Act are not misplaced in many cases. For instance the definition of 'consumer' is too restrictive and open to interpretation, and thus has denied redressal to many genuine cases of unfair practices. (Swapna et al., 2016)¹³. The charge of delay and the accumulation of pending cases cannot but be upheld. There is a seeming lack of zeal in the filing of vacancies in different Forums, and even the infra-structure (like office space, clerical assistance, issue of notices to the public etc.) is not being provided. Its work and functioning are known only to urbanites and educated people. A large number of people living in rural areas and those who are illiterate and traditional-minded, are deprived of its benefits. Sometimes appointments to the Forums are made disregarding the criteria for qualifications experience and competence, thus politicizing their work. There is nothing to bar the filing of false or frivolous complaints in the Forums, thus burdening them inordinately with avoidable hearings and resulting work. The Consumer Protection Act cannot be a panacea for all ills of consumerism. The remedy lies in Consumer

Education and an ever-vigilant consumer movement (Kumar & Sharma, 2019).

The Act has many limitations like there is a seeming lack of zeal in the filing of vacancies in different Forums, and even the infra-structure (like office space, clerical assistance, issue of notices to the public etc.) is not being provided. Its work and functioning are known only to urbanites and educated people. A large number of people living in rural areas and those who are illiterate and traditional-minded, are deprived of its benefits.

4. Conclusions

RERA property law is in development and there is an increasingly important place for property law in the debate on its future. The realisation that without the law of property it is difficult to proceed also comes with the realisation that it is difficult to deal with aspects of property law only. It is also important to look into the challenges faced by the both promoters and buyers on the one side and government on the other side in India.

The authority is not having any right to intervene in the commercial aspects of the real estate projects. In that the interest and right of the allottees/buyers are violated. The promoter in order to gain more in the project and to avoid the loss, he cunningly sells the corner flats for the high price, double club membership fees, common area utilization charges and sell the air ventilation flats for the increased price. This will affect the interest of the allottees/buyers those who are in wish to purchase the same. In *Ganesh Somasundaram v. M/s. Alliance Groups Pvt Ltd.*, the complaint Mr. Ganesh Somasundaram filed a complaint before the Authority stating that respondent demanding more and additional charges

¹³Lingam Amara Swapna and others, 'Awareness Of Consumer Protection Act Among The Dental Fraternity In India' (2016) 8 Journal of Orofacial Sciences.

for car parking charges, corner flat charges, club membership charges etc., The Regulatory authority dismissed the complaint stating that they have no any jurisdiction to intervene in the commercial aspects of selling the real estate projects. It clearly violates rights and interest of the allottees. The act should get amended to give property authority to Regulatory Authority to intervene in the commercial aspects of the real estate projects.

The old projects enacted before the RERA, 2016 will not come under the purview of this Act. The problem with the RERA, 2016 is there is no ground staff to check the registration details of the projects registered with Regulatory authority. There is no proper mechanism to cross check promoters' action.

The Real Estate Agent is bridge pillar between the Buyer and Seller, Promoter and allottee. Suggestion for Enhancement of Real Estate Agent Seven steps to winning any negotiation; Make an approach; Listen to gather information; Develop rapport to develop real estate; Make your points; Get agreement along the way; Overcome objections and End successfully. Real estate sector is one of the more money laundering industry not only in India but whole world. Particularly the black money transaction is more in India in the Real estate sector. There is a big monetary gap between Market price and guideline value is creating black money transaction in India. The corruption looter wished to invest their black money either in gold or real estate. The gold can be looted by the thieves but Land, Building and any immovable properties cannot be looted by anyone. Hence, the black money investor decided to invest their black money in Real estate sector through their Benamies. The black money

laundering crushed the base of Real estate sector by purchasing the agricultural land for the other use.

India is agriculture. Due to less profit in agriculture, the farmers are sold their lands to Real estate promoter for fewer amounts. In that way the Agriculture in India was ate by Real estate sector. The Public Interest Litigation (PIL) filed by advocate Elephant Rajendran against Tamilnadu government, to stop the conversion of agricultural land to urban use in an unauthorized manner. The Court expressed its concern that when society develops automatically the urbanization does take place. It is worthwhile to note here that the Real Estate (Regulation and Development) Act, 2016 is for welfare of the home buyers, to protect them from fraudulent act of promoters and unnecessary delay in giving possession of the property. The Real estate sector is separated in view of residential and commercial. The residential view is more than complicated problems than commercial view. The urban ministry comes to establish this act in the other with help of contract and transfer of property not related to agricultural land. Finally, the land conversion and usage are perfect factor to implement this act for the use of public.

5. Recommendations

Based on the discussion found in the previous chapters, the following suggestions have been given:

► The Real Estate (Regulation and Development) Act, 2016 has not specifically covered the agricultural land. Therefore, it is right time that appropriate authorities of the State Government to make it clear that what are the lands put to agricultural use and what are lands put to urban use in order to process of urbanization in organized manner.

► Due to urbanization, the world cities are expanding like anything resulting in the conversion of land as usage of land is one of the most alarming for the real estate sector. There is no doubt that the mind-set of the lower income group is to purchase any property in their name for shelter. In this regard, the villages near big cities have been changing drastically into IT hubs, Industry hubs and residential hubs. Furthermore, the main problem is land conversion and land usages as it is under the realm of the State list.

► It is high time to look into the delay in construction by the promoter as it has plagued the sector for quite some time now. To avoid the time delay and expenses other charges of the promoters to get the approval and registration of projects etc., the State Government should ensure Single Window System for getting approval of the projects, legal scrutiny and registration under the Real Estate (Regulation and Development) Act, 2016, then only everything will be solved across the table.

► There should be a provision for redevelopment/reconstruction of the apartments under the Real Estate (Regulation and Development) Act, 2016.

► The Regulatory Authority is now a Regulating agency for the Real Estate sector. But they are not responsible for the legal and title documents submitted by the Promoters. Hence, there must a Legal Scrutiny team in the Regulatory Authority to monitor the same.

► The State Government should appoint Monitor Committee including Engineers, Architects and other experts to check the details of the Real Estate project submitted for registration before the Authority and

they must have the right to visit the site as when required and check the quality of construction and the stages of the construction along with details submitted by the promoters. The committee should monitor the project and encourage the builders to construction of environmentally sustainable which is the new mode of construction insisted by United Nations through United Nations Conference on Housing and Sustainable Urban Development.

► The India RER Rules, 2017 should be shaped more to the tune of the RERA, 2016 in order to ensure the transparency and accountability in real estate sector, then only real estate sector should develop in a systematic manner.

Future of RERA

The phenomenon of real estate has been an essential aspect in the growth and development of every economy through the contribution and the potential that it brings to every state in their effort to increase and preserve their cultural heritage. As the word goes “once a fixture, always a fixture”, this aspect of real estate has not only being beneficial to the government of a country, but also to its citizens who finds it as an important asset in their livelihood be it through ownership, purchase, retail and even mortgaged of these property. Due to the constant need of the population, there have been these high demands for the construction of real estate through infrastructure, residential buildings, students’ accommodation, market warehousing and other relevant infrastructures. (Ranadive & Dare, 2019)¹⁴.The

¹⁴M.S. Ranadive and Pranoti Deepak Dare, 'Implications Of Real Estate Regulatory Authority And Goods And Services Tax On The Indian Real Estate Sector' (2019) 1 International

government of India has not been left out in promoting and encouraging the development and potential in the real estate sector. The building of huge infrastructure, students' accommodation, market warehouses, rental services and building have been the objective of the government in ensuring that the living condition of its citizens should be cater for. The problem is not just only providing or making these services available to the local population, or other user. The issue is whether this real estate in the country will meet the taste of time through the provision of the necessary facilities and services needed by the local population. The increase in the local population and the high cost that a citizen has to incur in having access to this real estate has been a course for concerned. The question is to ascertain whether engaging in this real estate, the government of India takes into consideration the living standard of its citizens, the income network and even the affordability of the real estate. The situation about the maintenance and the sustainability of such real estate should be of prime concern. The government when putting in place reforms for real estate, do they take into consideration the stake of the society in question? The challenges procuring the real estate sector in India has been of great worries not only to buyers/consumers, but also to government, academicians, industry and even research institute who has question the future of this valuable sector in the economy due to the various huddles faced.

It is important to focus the RERA, 2016 here. According Section 3(2) the RERA, 2016 Project an area of land which is less than 500 sq.mtr., and also the number of apartments is less than 8 need not to be registered under the RERA, 2016. The buyer has to

Journal of Sustainable Real Estate and Construction Economics.

face the lots problems in this matter. More over all Real Estate Project which are not registered under the RERA, 2016 cannot find a solution through this Act. So, the buyers are in the state of finding a solution through the Real Estate (Regulation and Development) Act, 2016. In the bigger cities like Chennai, Mumbai, Delhi, Kolkatta, Pune, Ahamadabad, Begaluru and Hydreabad etc., the land value is high and finding the 500 sq.mtr above real estate project is a big task. In the above cities, the land prices in the Urban areas are increasing and it will lead to the decrease Real Estate projects in those areas. The Promoters in order to escape from the RERA, 2016, will buy larger extent of land and divide into plot not exceeding 500 sq.mtr. and get the permission each plot as separate project. Cunningly they will not sell the same as gated community. Hence, it will be treated as separate project. After enactment of the RERA, 2016, the promoters are showing least interest in doing big projects. The Real Estate Project which does not register under the RERA, 2016 will not get any solution. The impression of enacting the RERA,2016 will be no use to people until all projects should be registered under the RERAAct, 2016. To enforce the rights of the buyers all the Real Estate projects must be registered under Section 3 of the Act (Alexander, 2017)¹⁵.

REFERENCES

Alexander A, 'A Study On The Benefits And Impact Of Real Estate (Regulatory&Development) Act, 2016 On The Real Estate Sector' (2017) 7 ACADEMICIA: An International Multidisciplinary Research Journal

¹⁵Ann Mary Alexander, 'A Study On The Benefits And Impact Of Real Estate (Regulatory&Development) Act, 2016 On The Real Estate Sector' (2017) 7 ACADEMICIA: An International Multidisciplinary Research Journal.

Choi C, 'An Analysis On Asymmetric Volatility Of Reits Type Stock Indices In USA' (2019) 79 Korea Real Estate Academy

'Dubai Property Laws (Recent Developments) - Real Estate And Construction - United Arab Emirates' (Mondaq.com, 2021) <<https://www.mondaq.com/real-estate/855936/dubai-property-laws-recent-developments>> accessed 2 February 2021

'Haryana Urban Development ... Vs Rajnish Chander Sharda On 12 January, 2000' (Indiainkanoon.org, 2021) <<https://indiainkanoon.org/doc/1712383/>> accessed 2 February 2021

Huston S, and Han H, 'Designing Transparent Real Estate Open Data Systems: Sydney, Dubai And London' [2018] SSRN Electronic Journal

Ibrahim W, 'Foreigners' Real Estate Property In United Arab Emirates : Comparative Study' [2018]

Joshi A, and Singh N, 'Real Estate Regulation Act (RERA), 2016: Implementation And Issues' (2018) V International Journal of Management Studies

Kim Y, 'The Process Of Change In North Korea'S Real Estate Contract Laws And Their Future Transition' (2019) 5 Journal of Real Estate Analysis

Kumar V, and Sharma A, 'Strengthening Consumer Rights: The Advent Of Consumer Protection Act, 2019' [2019] SSRN Electronic Journal

Lee S, 'On Deregulating The Real Estate Brokerage Fee Of Korea' (2019) 5 Journal of Real Estate Analysis

Majumdar A, 'Developments In The Apartment And Urban Real Estate Laws In India' [2016] SSRN Electronic Journal

Nabi M, and Nabi M, 'Consumer Protection: Policy And Law In India' (2020) 1 Studies in Social Science Research

Ooi J, and Dung D, 'Finding Superior Returns In Green Portfolios: Evidence From Singapore Reits' (2019) 11 Journal of Sustainable Real Estate

Patil S, and Waghmare A, 'Influence Of Rera On Real Estate Sector' [2018] Journal of Advances and Scholarly Researches in Allied Education

Ranadive M, and Dare P, 'Implications Of Real Estate Regulatory Authority And Goods And Services Tax On The Indian Real Estate Sector' (2019) 1 International Journal of Sustainable Real Estate and Construction Economics

RERKIZ 'The Influence Of The Real Estate Regulations For Kaeseong Industrial Zone(RERKIZ) On Real Estate Legislation Of North Korea' (2016) 90 The Korea Spatial Planning Review

Swapna L and others, 'Awareness Of Consumer Protection Act Among The Dental Fraternity In India' (2016) 8 Journal of Orofacial Sciences

YAMAMURA Y, 'Significance Of Crowdfunding In Urban & Regional Revitalization And Real Estate Market' (2019) 32 The Japanese Journal of Real Estate Sciences

Yousef I, 'The Determinants Of Capital Structure: Evidence From GCC And UK Real Estate Sectors' (2019) 27 Real Estate Management and Valuation

Feedback Studio — Mozilla Firefox

https://ev.turnitin.com/app/carta/en_us/?s=1&u=1098287597&o=1500384527&lang=en_us

feedback studio RERA and Consumer Protection Act: The Choice is of the Buyer.

90%

1 of 1

Match Overview

9%

Match 2 of 5

1	www.centrik.in	Internet Source	1%
2	lawstreet.co	Internet Source	1%
3	housing.com	Internet Source	1%
4	M.S. Ranadive, Pranoti ...	Publication	1%
5	Submitted to National ...	Student Paper	<1%
6	Submitted to University...	Student Paper	<1%
7	Submitted to American...	Student Paper	<1%
8	www.mondaq.com	Internet Source	<1%
9	Submitted to University...	Student Paper	<1%
10	ideas.repec.org	Internet Source	<1%

Manipal University Jaipur

Title: RERA and Consumer Protection Act: The Choice is of the Buyer.

Research Paper

Doctoral Programme

Submitted By:

Sauhard Sharma

Page: 1 of 19 Word Count: 5783

Type here to search

Text-only Report High Resolution On

ENG 08:17 03-02-2021